

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 298 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH and
MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SURESHKUMAR NATHALAL THAKKR

Versus

THE STATE OF GUJARAT

Appearance:

NOTICE SERVED for Petitioner

Mr. K.T.Dave, A.P.P. for Respondent No. 1, 3

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE M.S.PARIKH and
MR.JUSTICE A.K.TRIVEDI

Date of decision: 10/03/99

ORAL JUDGEMENT

Mr. K.T. Dave, learned A.P.P. appears for the respondent-State.

This Special Criminal Application has been placed

alongwith Special Civil Application no.1737/84. However, we have been able to notice following order passed on 24th April, 1986 in Special Civil Application no.1737/84:

" In a group of petitions - no.3700 and allied matters, this Court by an order dated April 7, 1986 permitted withdrawal of the petitions on the terms and conditions set out therein. Mr. Naik, learned Advocate for the petitioner in the present petition, also seeks leave to withdraw the petition on the same terms and conditions. Mr. Naik is permitted to withdraw the petition on the same terms and conditions as if the same order of April 7,1986 is passed in the present petition. In other words, our order of 7th April, 1986 passed in the above group of petitions will mutatis mutandis apply to the present petition also. The petition is allowed to be withdrawn. Rule is discharged with no order as to costs."

Having reproduced the above order, we noticed the following relief in the Special Civil Application:

- (a) to issue necessary writ order or direction declaring the provisions of the Indian Forest(Gujarat Amendment)Act,1983 as ultra vires the provisions of the Constitution of India.

We are not concerned with the consequential reliefs set out in sub-paragraphs (b) and (c) thereof.

In the present Special Criminal Application, the relief sought is:

- (a) to issue necessary writ order or direction declaring the provisions of the Indian Forest (Gujarat Amendment) Act,1983 as ultra vires the provisions of the Constitution of India.

We are not concerned with the reliefs at sub-paragraphs (b) to (e) which are consequential in nature.

It would appear that the consequential reliefs relate to the order passed by the Court of Sessions Kutch at Bhuj in Criminal Revision Application no.37/84 on 8th May, 1984 granting/suspending the stay of the order for return of muddamal truck to Shri Sureshkumar Nathalal Thacker passed in Bhauchau Police Station C.R no.36/84 on 12th April, 1984 till this Revision Application is heard and decided. Notice to other side with Yadi to trial

Court had been issued. In view of the fact that the challenge to vires of the provisions of the Indian Forest (Gujarat Act), 1983 came to an end as noticed from the orders passed by this Court in other matters and in view of the fact that the petitioner of the present Special Criminal Application is not remaining present before this Court inspite of the fact that notices have been issued to him in the past and have been duly served, we find that the petitioner does not appear to be interested in carrying further the challenge to the vires of the provisions of the aforesaid Act. Be that as it may, while bearing in mind the fact that the challenge to the vires of the aforesaid Act has come to an end, we do not find it necessary to keep this Special Criminal Application alive. In so far as consequential reliefs are concerned, the order clearly appears to be interlocutory in nature, and therefore, we do not find it necessary to relegate the matter to a learned Single Judge of this Court. Under the circumstances, we dismiss this Special Criminal Application for want of prosecution. However, in case the petitioner comes forward with some legitimate cause concerning the prayer in this very Special Criminal Application, it will be open to him to move an appropriate application, to revive this petition. Rule is accordingly discharged.

stanley-msp.